

# **Exhibit A**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

EDMAR FINANCIAL COMPANY, LLC; IRISH  
BLUE & GOLD, INC.; and XTX MARKETS  
LIMITED,

Plaintiffs,

v.

CURRENEX, INC.; GOLDMAN SACHS & CO.  
LLC; HC TECHNOLOGIES, LLC; STATE  
STREET BANK AND TRUST COMPANY;  
STATE STREET GLOBAL MARKETS  
INTERNATIONAL LIMITED; and JOHN DOE  
DEFENDANTS 1-5,

Defendants.

Case No. 1:21-CV-06598 (LAK)

**DECLARATION OF GREGORY P. FORTUNA IN OPPOSITION TO  
PLAINTIFFS' MOTION TO COMPEL POST-COMPLAINT  
TRADING DATA**

Pursuant to 28 U.S.C. § 1746, Gregory P. Fortuna declares:

1. I am over 18 years of age, and I understand the obligations of an oath.
2. I am a Senior Vice President and Senior Managing Director at State Street Bank and Trust Company ("State Street"), and the Global Head of GlobalLink. GlobalLink is State Street's suite of electronic trading platforms that it offers to customers, and includes the FX trading platform operated by Currenex, Inc. ("Currenex") that is the subject of this litigation (the "Platform").
3. I make this Declaration in support of Currenex's opposition to Plaintiffs' letter-motion to compel Currenex to produce nearly two years of additional trading data from the Platform that post-date the filing of the complaint initiating this action. The statements herein are

based upon my personal knowledge and belief, and based upon information conveyed to me by other Currenex and State Street employees.

**No Priority In Tiebreaking For At Least 6 Years Before This Litigation**

4. In reviewing information relevant to the allegations in this action since the filing of the initial complaint, State Street has reviewed information relating to (among other things) the historical and current operation of the algorithm used by the Platform to match trades. That review, which remains ongoing, shows that the Platform has not utilized priority settings in connection with tiebreaking since at least 6 years before August 4, 2021.

5. Since at least 2015, the Currenex Platform has prioritized “firm” price quotes (*i.e.*, the price quote is not subject to “last look” functionality) over price quotes that are subject to “last look” functionality.

6. That review has also revealed that, prior to 6 years before August 4, 2021, Plaintiff XTX Markets Limited itself was assigned priority settings that would have applied in numerous historical tiebreaking scenarios. Currenex is currently in the process of producing to Plaintiffs platform data and settings that reflect these priority settings.

7. If Currenex were ordered to produce the nearly two years of additional trading data that Plaintiffs seek in this case, it would impose considerable financial burden, would pull a range of senior Currenex employees away from their job responsibilities, and create substantial risk to the Platform and its customers.

**The Existing Pre-Complaint Data Production**

8. The total volume of trading data from the Platform that Currenex is already in the process of producing to Plaintiffs in this litigation measures 221 terabytes. That data production

includes 186.5 million individual files, composed of approximately 55 trillion records or lines of data.

9. The collection and production of the 221 terabytes of data is unprecedented for Currenex, and has already imposed a heavy burden on the business.

10. At least seven senior-level employees have collectively devoted hundreds of hours of their time to the existing production. Specifically, Sarath Chithirala (Senior Software Delivery Lead, Data Markets Corporate Technology, GlobalLink) and Alan Brownjohn (Platform Engineering Lead, Technology, Platform Engineering and Operations, GlobalLink) have estimated that they have each spent almost 6 weeks' worth of time on the production; Brian Kelly (Managing Director, Head of Product Development, GlobalLink Synergy/Currenex) has estimated that he has spent approximately 3 weeks' worth of time on the production; and Fred Bintas (Managing Director, Operations Client Services, Currenex), Anton Vasilyev (Managing Director, GLFX Lead, Data Markets Corporate Technology, GlobalLink), Matthew Siliato (Senior Managing Director/Senior Vice President, Technology, Platform Engineering and Operations, GlobalLink), and Rawson Fang (Managing Director, Network infrastructure and engineering- Technology, Platform Engineering and Operations, GlobalLink) have estimated that they have each spent approximately 1 week worth of time on the production. The work performed by these individuals has been undertaken in coordination with and pursuant to the advice of both in-house counsel at Currenex and State Street, and outside counsel at Ropes & Gray LLP. The time commitments identified in this Paragraph reflect each individual's personal time devoted to this undertaking; in many cases, these senior leaders have also engaged the teams that report into them as well, amounting to hundreds of additional combined hours of employee time pulled away from core day-to-day responsibilities operating the business.

11. Each individual identified above is the most senior-level person at Currenex or, in some instances, the larger GlobalLink division within his respective job function. Mr. Chithirala is the most senior Developer supporting Currenex; Mr. Brownjohn is the most senior member of the Technology Operations team supporting Currenex; Mr. Kelly leads the Product Management team; Mr. Bintas leads the Trade Operations team; Mr. Vasilyev is the head of Application Development for GlobalLink platforms including Currenex; Mr. Siliato is the Chief Technology Officer of GlobalLink; and Mr. Fang leads the Network Infrastructure team for GlobalLink.

12. It has been necessary for each of these senior leaders to devote time to this effort not only because of the size and complexity of the undertaking, but also because this trading data lies at the core of Currenex's business. Currenex's viability as an anonymous electronic trading platform depends on safeguarding the proprietary details of its operation, and on ensuring the continued trust of its customers, who rely on Currenex to maintain the security of their data.

13. Effectuating the existing data production has required these individuals and their teams to take weeks away from their ordinary business responsibilities to scope and collect the relevant data, and then to undertake the complex task of arranging to transfer the data to a third-party vendor for production to Plaintiffs without risking its inadvertent disclosure or disrupting the continued operation of the Platform.

14. For example, in order to determine the relevant scope of the data, Currenex agreed to engage in a sampling exercise, whereby it collected and produced to Plaintiffs a one-week, one-currency-pair sample of data. Once the scope of production was ultimately determined based on that sample set, a script had to be written and run to collect the relevant data. There was also extensive coordination with Currenex's third-party vendor on the protocols needed to support the digital transfer of the data, which required the creation of bespoke infrastructure in the cloud

storage systems used by Currenex and the vendor. Those efforts also involved work to plan and test how the data transfer could be effectuated efficiently and securely, without devoting so much network bandwidth to that exercise that the day-to-day operation of the online Currenex Platform would be disrupted.

15. Beyond the time spent on the technical aspects of the existing production, certain of the individuals identified above—primarily, Mr. Chithirala and Mr. Kelly—had to devote their time to help respond to certain data-related questions that Plaintiffs raised in connection with the sample data. Should Plaintiffs raise further questions about the data production, these individuals will likely have to devote even more of their time to fielding those questions.

16. Scoping, negotiating, and carrying out the existing collection and production has also been very costly. The vendor costs associated with the collection, processing, and production of the existing data total, to date, approximately \$900,000. This amount includes costs associated with storage of the data thus far (though it does not include hosting costs going forward) and with conducting a wide range of necessary quality control checks on the data, which process remains ongoing. Thus, even after the existing production is transferred to Plaintiffs, Currenex is likely to continue incurring significant costs in connection with this production.

#### **The Additional Post-Complaint Data Production**

17. The total volume of trading data from the Platform for the period from January 1, 2022 through August 4, 2023 is approximately 55 terabytes.

18. If Currenex is ordered to collect and produce this data, many of same the individuals identified above in Paragraph 10 will have to devote more time to the additional production, once again diverting their attention away from their business responsibilities. Carrying out the further collection will require, among other things, writing and running a modified computer script,

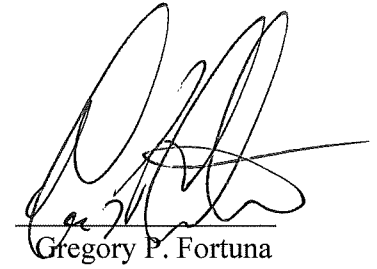
reestablishing the necessary network connections with Currenex's third-party vendor, designing and monitoring the transfer to ensure it is completed efficiently and securely, and working with the vendor through its quality control process to answer questions and, where necessary, resolve any problems with the transferred data by, for example, recollecting and retransferring corrupted files.

19. As with the existing production, Currenex will also incur substantial costs with its third-party vendor in connection with simply transferring and storing the additional data for the pendency of this litigation. Those amounts are in addition to the legal and expert work that would be required to scope, process, and prepare the data for production, and to field questions on that data from Plaintiffs. Specifically, Currenex's vendor has estimated that the costs associated with collecting, processing, conducting quality control checks, and producing to Plaintiffs the 55 terabytes of additional data is estimated to be at least \$236,000, and could ultimately total well over \$300,000.

20. In addition to the costs and the burden of time and distraction, the additional production would also disclose more recent trading data, the production of which poses an increased risk to the Currenex business, and to Currenex's clients. The additional production that Plaintiffs seek would encompass millions of transactions by Platform users for a period extending all the way up to barely more than a year ago. The production of this recent trading data would risk exposing the current trading strategies of the Platform's users, including to a sophisticated algorithmic trader such as XTX Markets Limited. Currenex's clients who choose to trade on the Platform anonymously expect to remain anonymous, and therefore expect that their trading strategies will not be revealed to other Platform participants. The production Plaintiffs seek therefore increases the risk of harm to those clients, as well as to the Currenex business.

21. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Boston, Massachusetts on November 26, 2024.



Gregory P. Fortuna